

Township of Delmar, PA Short-Term Rental Ordinance

ORDINANCE NO. 2021- 94

AN ORDINANCE OF THE TOWNSHIP OF DELMAR, COUNTY OF TIOGA, COMMONWEALTH OF PENNSYLVANIA, RELATING TO THE USE AND REGULATION OF SHORT-TERM RENTAL UNITS WITHIN THE TOWNSHIP AND ESTABLISHING APPLICATION AND PERMIT STANDARDS AND PROCEDURES, PROVIDING FOR ADMINISTRATION AND ENFORCEMENT INCLUDING PENALTIES, AND OTHER MATTERS PERTAINING THERETO.

Scope.

- A. The provisions of this chapter shall apply to all residential dwelling units, conversions of the nonresidential structures to residential dwellings, and all existing premises within the Township of Delmar. The owner of the subject property shall be responsible for compliance with the provisions of this chapter, and failure of an owner, person in charge, or renting occupants to comply with the provisions of this chapter shall be deemed noncompliance by the owner.
- B. This chapter shall not apply to a hotel/motel/inn, bed-and-breakfast, boarding house, campground or group home, when the property owner or a representative, is present on site at the property on a twenty-four-hour-per-day-basis.

Interpretation.

This chapter is not intended to, and does not, excuse any landowner from compliance with the Delmar Township Zoning Ordinance, as amended from time to time. Whenever possible, this chapter and the Zoning Ordinance should be construed and interpreted as being consistent and not in conflict.

Definitions.

For the purposes of this chapter, words and terms used herein shall be interpreted as follows:

BEDROOM

A room or space designed to be used for sleeping purposes with two means of egress (one of which may be a window acceptable under the building code), a closet, and in close proximity to a bathroom. Space used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered bedrooms. Space used or intended for general and informal everyday use such as a living room, den, sitting room or similar is not to be considered a bedroom.

DAY GUEST

A visitor to the Short-Term Rental Property (STR), but not constituting an occupant.

OCCUPANT

Person staying at the STR overnight. A person located on the STR premises shall be deemed an occupant unless established otherwise by owner, person in charge or tenant.

OWNER

Person having legal or equitable ownership of the STR property. If there is more than one such person, then "owner" shall mean each such person, individually and jointly.

PERSON IN CHARGE

A person or agent with actual authority to represent the owner for purposes of contact and communication regarding the owner's STR. A person in charge must reside or have an office within 30 minutes of the STR property and be able to act as the legal agent for the owner. The Township must be notified, in writing, within 14 days if there is a change in the identity of the person in charge.

SHORT-TERM RENTAL (STR)

Any dwelling unit utilized as a single-family residence rented for the purpose of overnight lodging for a period of 30 days or less, and which meets the definition of hotel for the purpose of imposing an excise tax by the County of Tioga.

TENANT

Shall refer to the primary individual who signed an agreement with the owner or owner's agent for the temporary use of the STR for 30 consecutive calendar days or less.

Permit Required.

No owner of any property in Delmar Township shall operate a short-term rental in Delmar Township without first obtaining a short-term rental permit from Delmar Township. Operation of a short-term rental without such short-term rental permit is a violation of this chapter.

Permit Requirements.

- A. Short-term rental permit applications shall contain all of the following information:
 1. The name, address, email and twenty-four-hour telephone number of the owner.
 2. The name, address, email and twenty-four-hour telephone number of the person in charge if different from the owner. A local person in charge shall have written authorization to accept service for the owner.
 3. If not on a Municipal Sewage System, the owner of the property shall contact the Township Sewage Enforcement Officer to complete a septic inspection and provide to the Township satisfactory proof that the septic system has been inspected and is working condition. (Cost of this inspection will follow the Township fee schedule) The owner shall maintain the STR property's septic system on a pumping schedule of not more than every five years and provide the Township satisfactory written proof of compliance upon its request.
 4. Copies of current Tioga County Hotel Room Excise Tax Certificate and current Pennsylvania Sales and Use Tax Permit.
 5. Signatures of both the owner and the local person in charge.
 6. Trespass waiver signed by the owner allowing access to the property for the Enforcement Officer for the purpose on inspection to verify compliance with this chapter.
 7. Copy of the current recorded deed for the property establishing ownership.
- B. A short-term rental permit shall be issued only to the owner of the short-term rental property.
 1. A short-term rental permit is effective until any of the conditions of the short-term rental which are governed by this chapter are changed, whichever shall first occur. A short-term

permit must be renewed when any of the conditions of the short-term rental which are governed by this chapter are changed.

2. The township will prescribe forms and procedures for the processing of permit applications under this chapter.
3. Permits are nontransferable. If ownership of an STR changes, the new owner(s) must complete a new application form before renting out any part of the dwelling unit for short-term rental.
4. The owner or person in charge shall respond to a Township Representative with one hour after being notified of the existence of a violation of this chapter or any disturbance requiring immediate remedy or abatement. If the person in charge is not the owner, they shall immediately advise the owner of any notification of a violation.

Short-Term Rental Standards.

- A. Occupancy of a short-term rental shall be limited to no more than:
 1. Two persons per bedroom, plus four additional persons; or
 2. A maximum of 14 occupants, including owner, whichever is less.
- B. The maximum number of day guests allowed at any one time, in addition to the occupants, shall be 75% for maximum permitted occupancy of the short-term rental.
- C. The number of bedrooms permitted for a short-term rental shall not exceed the number of bedrooms approved for the dwelling unit on the sewage permit issued for such property. Where there is no sewage permit on record, the short-term rental shall be limited to three bedrooms unless proof is provided to the Sewage Authority Officer that the septic system is adequate to handle additional flows. Any short-term rental advertising more than five bedrooms shall provide proof that the septic system is adequate to handle such flows by having a system approved by the Sewage Enforcement Officer, or by providing a septic permit previously issued by a Sewage Enforcement Officer. If a sewage system malfunction occurs, short-term rental of the dwelling unit shall be discontinued until the malfunction is corrected in accordance with Township and Pennsylvania Department of Environmental Protection requirements.
- D. Outdoor parking for occupants and day guests shall be limited to available parking areas on the short-term rental property. In no event shall parking for short-term rental tenants include spaces in any public street right-of-way.
- E. A short-term rental property shall not have any outside appearance indicating a change of use from the surrounding residential uses.
- F. Neither short-term rental occupants nor guests shall engage in disorderly conduct or disturb the peace and quiet of any nearby neighborhood or person by loud, unusual or excessive noise, by tumultuous or offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight or fighting, or creating a dangerous or physically offensive condition.
- G. The owner shall use best efforts to assure that the occupants or guest of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or otherwise violate provisions of the Delmar Township Code or any state law pertaining to noise or disorderly conduct, including but not limited to, notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws, ordinances, or regulations regarding their occupancy.

- H. The owner shall, upon notification that occupants or guest of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or otherwise violated provisions of the Delmar Township Code or state law pertaining to noise or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guest.
- I. Overnight occupancy of recreational vehicles and camper trailers at the property where the short-term rental is located shall not be allowed.
- J. All short-term rentals shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door contained the following information:
 - 1. The name of the owner of the owner unit or person in charge and a telephone number at which that party can be reached on a twenty-four-hour basis.
 - 2. The 911 address of the property.
 - 3. The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guest permitted at any one time.
 - 4. Notification that trashes and refuse is not permitted to be stored outside of STR property unless stored in appropriate receptacle.
 - 5. Notification that an occupant or guest may be cited and fined for creating a disturbance or for violating other provisions of the Delmar Township Code, including parking and occupancy limits.
 - 6. Notification that short-term rental occupants and guests are to require to make the dwelling unit available for inspection by a Delmar Township Representative upon request.
- K. Owner self certifies the STR property meets Pennsylvania Uniform Construction Code requirements.

Fees, and renewals.

Short-term rental fees, payable to Delmar Township upon the filing of a short-term rental permit application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.

Enforcement Officer.

- A. The administrator of this article shall be the Delmar Township Supervisors, or their written designee, which shall include any appointed representative and/or Township Solicitor. The Delmar Township Representative shall have the responsibility and authority to administer and enforce all provisions of this chapter
- B. The issuance of a short-term rental permit is not a warranty that the premises is lawful, safe, habitable, or in compliance with this chapter.
- C. If there is reason to believe that any provision of this chapter is being violated, the Board of Supervisors may enter or may cause, through an authorized representative of the Township, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Township for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner or his agent to secure access thereof.

Marketing.

The marketing of a short-term rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this chapter, or which promotes any other activity which is prohibited by this chapter shall be a violation of this chapter.

Notice of Violation.

If it appears to an Enforcement Officer that a violation of the chapter exists or have occurred, the Enforcement Officer shall send a written notice of violation to the owner or person in charge by personal delivery or to the owner by both United States first-class and certified mail. The Enforcement Notice shall identify the premises, which is the subject of the violation, enumerate the conditions which constitute the violation, cite the specific sections of this chapter which are violated, indicate the action required to correct the violation, and provide a time frame (established by the Enforcement Officer based upon the nature of the violation) to correct the violation.

Nuisance.

In the interest of promoting the public health, safety, and welfare, and minimizing the burden on Township and community services and impacts on residential neighborhoods posed by short-term rentals, a violation of any of the provisions of this chapter is declared to be a public nuisance.

Violations and penalties.

- A. This chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$100 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by Delmar Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate injunction to enforce compliance with this chapter. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this chapter shall be paid to Delmar Township for its general use.
- B. In addition to, but not in limitation of, the provisions of Subsection A, the Delmar Township Representative may either revoke, or deny a short-term rental permit for three uncured or repeated violations of this chapter in any rolling twelve-calendar-month period. The revocation or denial to renew a short-term rental permit shall continue for six months for the first set of three uncured or repeated violations and continue for one year for any subsequent sets of violations.

Owners severally responsible.

If the premises are owned by more than one owner, each shall severally be subjected to prosecution for a violation of this chapter.

Appeals.

- A. Appeals of a determination of the Delmar Township Representative under this chapter to deny any application or revoke a short-term rental permit, shall be filed with the Board of Supervisors

within 30 days of the date of denial of application or revocation of permit. Appeal shall be processed as follows:

1. All appeals shall be in writing and signed by the appellant on forms prescribed by the Township and shall be accompanied by a fee, the amount of which shall be established by the Resolution of the Township Supervisors, which may include notice and advertising costs and necessary administrative overhead in relation to the hearing.
2. Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.
3. The hearing shall be held by the Board of Supervisors within 60 days from the date the appeal is filed, unless the appellant has agreed, in writing, to an extension of time.
4. Upon hearing the Board of Supervisors shall have 45 days to render a determination in writing which shall be mailed to the owner.
5. And aggrieved party may appeal the determination to the Tioga County Court of Common Pleas within 30 days.

In any section, provision, or portion of this Ordinance shall be held invalid or unconstitutional by and Court of competent jurisdiction, such decisions shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Township reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

The Ordinance shall become effective five (5) days after enactment.